

IN THE SUPREME COURT OF IOWA

IN THE MATTER OF THE
GRIEVANCE COMMISSION
OF THE SUPREME COURT
OF IOWA

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2006 - 2007 ANNUAL REPORT

TO THE CHIEF JUSTICE AND JUSTICES OF THE IOWA SUPREME COURT:

This Annual Report of the Grievance Commission is submitted as required by Iowa Court Rule 35.23 for the reporting period July 1, 2006 through June 30, 2007.

THE COMMISSION

Members

Rule 35.1 of the Iowa Court Rules establishes the Grievance Commission of the Supreme Court of Iowa. During the period addressed by this report, the rule provided for a commission consisting of ten lawyers from judicial election district 5C, five lawyers from each other judicial election district, and not less than five but not more than twenty-eight lay persons. All Commission members are appointed by the Supreme Court. Members are appointed for terms of three years, and no member who has served two full terms is eligible for reappointment. Those members of the Commission who have served during the reporting period July 1, 2006 through June 30, 2007 are listed at Exhibit A to this report. Lawyer Robert V.P. Waterman Jr. has been designated by the Court to serve as chairperson of the Commission.

Staff

During 2006 and 2007, Paul H. Wieck II served as the assistant court administrator for the disciplinary system and Clerk of the Grievance Commission. Tonya K. O'Donnell served as Assistant Clerk of the Grievance Commission. They were assisted in the Commission's office by Carolyn Gast and Dorraine Marshall.

GRIEVANCE COMMISSION CASE EXPERIENCE

Thirty-four cases filed with the Commission were pending final disposition before the Commission or the Supreme Court as of July 1, 2006. During the reporting period July 1, 2006 through June 30, 2007 an additional eighteen cases were filed with the Commission by the Attorney Disciplinary Board. During the reporting period, the Commission itself made final disposition of two cases by dismissal ¹ or private admonishment. Final disposition of an additional twenty-six cases resulted by stipulated or agreed discipline or by decisions of the Supreme Court. As of June 30, 2007 a total of twenty-four cases filed with the Commission remained pending before the Commission or the Supreme Court without final disposition. A summary report of case status for the reporting year is included with this report as Exhibit B. Recent historical data regarding grievance case filings and case dispositions is provided graphically at Exhibit F.

Exhibit C shows a summary of the manner of disposition of

¹ Only true dismissals are characterized as such. Cases ultimately dismissed following agreed or stipulated discipline have been categorized based on the discipline imposed.

the twenty-eight cases reaching final disposition during the reporting period. Three cases resulted in revocation of license, and twenty-two cases resulted in suspensions of varying lengths. One case was concluded by written reprimand. The Commission's synopsis of charges and report of disposition regarding those cases reaching final disposition is included with this report as Exhibit D.

DISABILITY AND DISCIPLINE ORDERS BASED ON OTHER AUTHORITY

Authority for disability or disciplinary orders exists in portions of the Iowa Court Rules outside of the scope of the Grievance Commission function. During the fiscal year commencing July 1, 2006 and ending June 30, 2007 the following orders were entered under these other provisions of the Iowa Court Rules:

Suspensions based on failure to comply with continuing legal education or client security reporting and fee payment duties under chapters 39 through 42 of the Iowa Court Rules	7
Public reprimands issued directly by the Attorney Disciplinary Board, with Court approval, under Iowa Court Rule 35.3	16
Temporary suspensions issued under Iowa Court Rule 34.7 based on failure to respond to notice of complaints received by the Attorney Disciplinary Board	5
Suspensions issued due to lawyer disability as provided in Iowa Court Rule 35.16	4
Suspensions or revocations issued based on the reciprocal discipline provisions of Iowa Court Rule 35.18	3
Suspensions or revocations issued based on receipt of a certified copy of judgment in a criminal prosecution, under the provisions of Iowa Court Rule 35.14	2

Suspension based on failure to comply with
auditing or claim investigation requirements of
the Client Security Commission, based on the
authority of Iowa Court Rule 39.12

1

ANNUAL FEE TO FINANCE DISCIPLINARY SYSTEM

Chapter 39 of the Iowa Court Rules ² was amended by order dated December 15, 1994 and effective January 3, 1995. The amendment provided that in addition to providing indemnity for losses caused to the public by the dishonest conduct of members of the bar of this state, the Client Security Trust Fund also would support administration of the lawyer disciplinary system and other programs that impact the disciplinary system, including but not limited to the Iowa Lawyer's Assistance Program.

Effective in 1995, as a condition to continuing membership in the bar, every bar member, unless exempt, is required to pay to the Client Security Commission an annual fee as determined by the Court to finance the disciplinary system. The 2006 annual fee was set at \$125.00. During the commission's fiscal year December 1, 2005 through November 30, 2006, annual fees and late penalties received to finance the disciplinary system totaled \$983,460. Total disciplinary funding received in fiscal year 2005-2006 was \$1,033,401, which included the annual fees, late fees, investment income on these funds and reimbursement of disciplinary costs paid.

By court order, the Client Security Commission was directed to pay a total of \$933,235.62 for the calendar year 2006 operating

² Then known as Iowa Court Rule 121.

budget of the Iowa Supreme Court Attorney Disciplinary Board. The Board actually made cash disbursements totaling \$852,860 during calendar year 2006. During the fiscal year December 1, 2005 through November 30, 2006, the Commission also paid operating expenditures for the Grievance Commission of the Supreme Court of Iowa totaling \$105,026, operating expenses of the Iowa Supreme Court Commission on the Unauthorized Practice of Law totaling \$3,861, and the Iowa Lawyer's Assistance Program operating subsidy totaling \$78,000. Total expenditures made for the disciplinary system during fiscal year 2006 (calendar year 2006 for the Board) were \$1,039,747.

The annual fee to be paid by each attorney to support the attorney disciplinary system for calendar year 2007 was set at \$125.00 by the Court. The annual fee collected again will be used to pay annual operating expenditures for the Attorney Disciplinary Board, Iowa Lawyer's Assistance Program, Grievance Commission and the Commission on the Unauthorized Practice of Law.

The Client Security Commission has established separate bookkeeping records and accounts for funds received to finance the disciplinary system. A Disciplinary Fund checking account has been established for disciplinary operations. The required annual fees received from attorneys to finance the disciplinary system are deposited in the Investment Account of the Client Security Commission, where they earn interest pending transfer to the Disciplinary Fund checking account. Funds deposited to the Disciplinary Fund checking account are diverted to interest bearing certificates of deposit to the extent not necessary to

support current operations of the Grievance Commission or the other entities supported by the disciplinary fee.

OPERATIONS

In April of 2003 the offices of the Commission were moved to the new Judicial Branch Building located at 1111 East Court Avenue in Des Moines, Iowa. The Assistant Court Administrator for the Client Security Commission also serves as Clerk for the Grievance Commission and as Executive Director for the Commission on Continuing Legal Education and the Lawyer Trust Account Commission. The commissions share staff, files and equipment to minimize operating expenses. The Court approved operating budgets shown at Exhibit E for the Grievance Commission for the fiscal year December 1, 2006 through November 30, 2007, and for the Commission on the Unauthorized Practice of Law for the calendar year 2007. Cooperation between the Attorney Disciplinary Board, the Commission on Continuing Legal Education, the Lawyer Trust Account Commission, the Grievance Commission and the Client Security Commission makes it possible to operate within the budgets for the 2007 fiscal year. For example, auditors of the Client Security Commission frequently provide investigative support to the Attorney Disciplinary Board. This results in effective and efficient operations for each entity.

All members of the Grievance Commission serve without compensation and receive only mileage and expense reimbursement in connection with their attendance at hearings. The Commission uses the mail and telephone conferencing to accomplish many of its

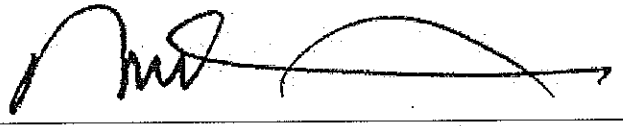
duties and also to make substantial preparation for its hearings. This method of operation has developed through experience and is facilitated by support of the Commission's staff.

Dated: August 1, 2007

Respectfully submitted,

GRIEVANCE COMMISSION OF THE SUPREME
COURT OF IOWA

By

A handwritten signature in black ink, appearing to read 'RVP Waterman, Jr.', written over a horizontal line.

Robert V.P. Waterman, Jr.
Chairperson

Exhibit A

Commission Members Serving During 2006-2007

CHAIRPERSON

EXPIRES

Robert V. Waterman, Jr.
(first appointed 2002-05; reappointed 2005-2008)

6-30-08

LAWYER MEMBERS

1A

Andrew F. VanDerMaatten
(first appointed 2006-2009)

6-30-09

Leslie V. Reddick
(first appointed 2005-2008)

6-30-08

Christine O. Corken
(first appointed 2006 to complete unexpired term thru 2008)

6-30-08

Mary Lynn Neuhaus
(first appointed 2004-2007)

6-30-07

Angela Simon
(first appointed 1999; reappointed 2002-05 & 2005-2008)

6-30-08

1B

Andrew C. Abbott
(first appointed 2005-2008)

6-30-08

George L. Weilein
(first appointed 2006-2009)

6-30-09

Elizabeth L. Lounsberry
(first appointed 2004-2007)

6-30-07

Linda L. Myers
(first appointed 2005-2008)

6-30-08

Max E. Kirk
(first appointed 2005-2008)

6-30-08

2A

Patrick B. Dillon
(first appointed 2006-2009)

6-30-09

James T. Fitzsimmons 6-30-07
(first appointed 2004-2007)

James P. McGuire 6-30-08
(first appointed 2005-2008)

Jackie D. Armstrong 6-30-08
(first appointed 2005-2008)

Kasey E. Wadding 6-30-08
(first appointed 2005-2008)

2B

Susan L. Ahlers 6-30-07
(first appointed 2001-04; reappointed 2004-2007)

Kirke C. Quinn 6-30-09
(first appointed 2006-2009)

Jim P. Robbins 6-30-08
(first appointed 2005-2008)

Paul C. Peglow 6-30-08
(first appointed 2005-2008)

Janece M. Valentine 6-30-08
(first appointed 2002-05; reappointed 2005-2008)

3A

Phil C. Redenbaugh 6-30-09
(first appointed 2006-2009)

David J. Stein, Jr. (712) 338-2431 6-30-07
(first appointed 2001-04; reappointed 2004-2007)

Lynn K. Fillenwarth 6-30-08
(first appointed 2002-05; reappointed 2005-2008)

Joseph L. Fitzgibbons 6-30-08
(first appointed 2005-2008)

Rosalise Olson 6-30-08
(first appointed 2005-2008)

3B

A. Frank Baron 6-30-08
(first appointed 2005-2008)

Stewart A. Huff 6-30-07
(first appointed 2004-2007)

Roseanne Lienhard (first appointed 2002-05; reappointed 2005-2008)	6-30-08
Charles N. Thoman (first appointed 2005-2008)	6-30-08
Julie A. Schumacher (first appointed 2003-2006; reappointed 2006-2009)	6-30-09
4	
Marti D. Nerenstone (first appointed 2003-2006; reappointed 2006-2009)	6-30-09
Michael J. Winter (first appointed 2005-2007)	6-30-07
Shannon D. Simpson (first appointed 2005-2008)	6-30-08
Judson Frisk (first appointed 2005-2008)	6-30-08
Kathryne Cutler (first appointed 2005-2008)	6-30-08
5A	
DuWayne J. Dalen (first appointed 2001-04; reappointed 2004-2007)	6-30-07
Jeannine R. Gilmore (first appointed 2005-2008)	6-30-08
Claire B. Patin (first appointed 2006-2009)	6-30-09
Terry Rickers (first appointed 2000; reappointed 2002-05 & 2005-2008)	6-30-08
Mark A. Otto (first appointed 2006-2009)	6-30-09
5B	
Paul M. Goldsmith (first appointed 2005-2008)	6-30-08
Martin L. Fisher (first appointed 2004-2007)	6-30-07
Loretta L. Harvey (first appointed 2003-2006; reappointed 2006-2009)	6-30-09

Robert W. Reynoldson 6-30-08
(first appointed 2005-2008)

5C

Guy R. Cook 6-30-08
(first appointed 2005-2008)

Mark L. Tripp 6-30-08
(first appointed 2006 to complete unexpired term thru 2008)

Connie L. Diekema 6-30-07
(first appointed 2004-2007)

Theresa R. Wilson 6-30-07
(first appointed 2005-2007)

Paul D. Scott 6-30-09
(first appointed 2005-2006; reappointed 2006-2009)

J. Keith Rigg 6-30-09
(first appointed 2005-2006; reappointed 2006-2009)

Jacqueline K. Samuelson 6-30-09
(first appointed 2003-2006; reappointed 2006-2009)

James L. Sayre 6-30-07
(first appointed 2005-2007)

Anjela A. Shutts 6-30-08
(first appointed 2005-2008)

Stephanie L. Cox 6-30-08
(first appointed 2005-2008)

6

Andrew B. Chappell 6-30-07
(first appointed 2002-04; reappointed 2004-2007)

Susan M. Dulek 6-30-09
(first appointed 2003-2006; reappointed 2006-2009)

Iris E. Muchmore 6-30-08
(first appointed 2005-2008)

John W. Hayek 6-30-09
(first appointed 2006-2009)

7

Walter J. Conlon 6-30-09
(first appointed 2003-2006; reappointed 2006-2009)

Robert J. McGee (319) 243-6210 6-30-07
(first appointed 2001-04; reappointed 2004-2007)

Robert V. Waterman, Jr. 6-30-08
(first appointed 2002-05; reappointed 2005-2008)

Candy K. Pastrnak 6-30-09
(first appointed 2003-2006; reappointed 2006-2009)

Julie A. Walton 6-30-08
(first appointed 2002-2008)

8A

Christal L. Arthur 6-30-09
(first appointed 2003-2006; reappointed 2006-2009)

Timothy W. Dille 6-30-08
(first appointed 2005-2008)

Crystal S. Cronk 6-30-09
(first appointed 2003-2006; reappointed 2006-2009)

James S. Schwiebert 6-30-07
(first appointed 2004-2007)

Douglas L. Tindal 6-30-08
(first appointed 10/04 to complete T. Walter term; reappointed 2005-2008)

8B

Pamela K. Dettman 6-30-08
(first appointed 2005-2008)

Douglas H. Napier 6-30-07
(first appointed 2004-2007)

George E. Wright 6-30-08
(first appointed 2005-2008)

Gary Wiegel 6-30-08
(first appointed 2000 to fill unexpired term; reappointed 2002-05 & 2005-2008)

LAY MEMBERS

Sandy Teig 6-30-08
(first appointed 2005-2008)

William Skinner 6-30-08
(first appointed 2005-2008)

Ellen Widiss (first appointed 2002-05; reappointed 2005-2008)	6-30-08
Carole Waterman (first appointed 2002-05; reappointed 2005-2008)	6-30-08
Karen Hibben-Levi (first appointed 2002-05; reappointed 2005-2008)	6-30-08
Larry Foote (first appointed 2005-2008)	6-30-08
Nancy Ross (first appointed 2005-2008)	6-30-08
Michael Ballard (first appointed 2003-2006; reappointed 2006-2009)	6-30-09
Lee Clancey (first appointed 2003-2006; reappointed 2006-2009)	6-30-09
John M. Lewis (first appointed 2003-2006; reappointed 2006-2009)	6-30-09
Tom Betts (first appointed 2005-2008)	6-30-08
Lennis Moore (first appointed 2005-2008)	6-30-08
Carol Thompson (first appointed 2005-2007)	6-30-07
William Lehmkuhl (first appointed 2005-2007)	6-30-07
Jacquie Easley (first appointed 2005-2007)	6-30-07
Allan Zagoren (first appointed 2005-2007)	6-30-07
Dr. Daniel L. Hall (first appointed 2004-2007)	6-30-07
Margaret Horn (first appointed 2004-2007)	6-30-07
Neil Fell (first appointed 2005-2007)	6-30-07

Winton Boyd
(first appointed 2005-2007)

6-30-07

EXHIBIT B
GRIEVANCE CASE STATUS SUMMARY REPORT YEAR 2006-2007

DOCKET NUMBER	PENDING ON 7/1/06	FILED 7/1/06 - 6/30/07	FINAL DISPOSITION 7/1/06 - 6/30/07	PENDING ON 6/30/07
544	X			X
564	X			X
582	X		X	
586	X		X	
590	X		X	
591	X		X	
592	X		X	
595	X		X	
596	X		X	
600	X		X	
601	X		X	
602	X			X
603	X		X	
605	X		X	
606	X		X	
607	X		X	
609	X		X	
611	X		X	
612	X		X	
613	X		X	
614	X		X	
615	X		X	
616	X		X	
617	X		X	
619	X		X	
620	X			X
621	X			X
622	X		X	
623	X			X
624	X		X	
625	X			X
626	X		X	
627	X			X
628	X			X
629		X	X	
630		X	X	
631		X		X
632		X		X
633		X		X
634		X		X
635		X		X
636		X		X
637		X	X	
638		X		X
639		X		X
640		X		X
641		X		X
642		X		X
643		X		X
644		X		X
645		X		X
646		X		X
Totals	34	18	28	24

EXHIBIT C GRIEVANCE CASE DISPOSITION SUMMARY FISCAL YEAR 2006-2007													
DOCKET NUMBER	DISMISSAL	PRIVATE ADMONITION	REPRIMAND ON CONSENT	REPRIMAND	SUSPENDED 30 DAYS OR LESS	SUSPENDED 31 TO 60 DAYS	SUSPENDED 61 TO 89 DAYS	SUSPENDED 90 TO 119 DAYS	SUSPENDED 120 TO 149 DAYS	SUSPENDED 150 TO 179 DAYS	SUSPENDED 180 TO 209 DAYS	SUSPENDED 210 TO 239 DAYS	REVOKED
582				X									
586													
590													
591													
592													
595													
596													
600													
601													
603													
605													
606													
607													
609													
611													
612													
613													
614													
615													
616													
617													
619													
622													
624													
626													
629													
630													
637													
Totals	0	2	1	6	1	0	0	9	1	5	0	0	3

EXHIBIT D
SYNOPSIS AND REPORT REGARDING CASES REACHING FINAL DISPOSITION
REPORTING PERIOD JULY 1, 2006 THROUGH JUNE 30, 2007

GRIEVANCE CASE NUMBER	SYNOPSIS OF CHARGES AND REPORT OF DISPOSITION
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- 582 In this case involving a part-time assistant county attorney, the Attorney Disciplinary Board alleged that the lawyer had represented a criminal defendant while serving as an assistant county attorney, amended traffic citations to cowl-lamp violations not supported by probable cause, and negotiated plea bargains that required contributions to various funds, including funds maintained by government entities. The Commission found that the alleged conduct violated DR 8-101(B) (assistant county attorneys shall not engage in criminal defense in any matter during their time of office) and DR 7-103(A) (instituting criminal charges without probable cause). The Commission found no ethical violation in the contributions provided for in the plea bargains, on grounds the lawyer received no personal benefit, the funds were used for their intended purpose and approved by the district court, and there was no evidence the practice was made available only to wealthy defendants. The Commission recommended that a public reprimand be issued. The Court agreed with the two violations found by the Commission. The Court disagreed with the Commission's finding regarding the contributions, noting that the contributions were not authorized by law, and therefore violated DR 1-102(A) (5) (conduct prejudicial to the administration of justice) regardless of the lawyer's intent or motive. The Court imposed a public reprimand.
- 586 The lawyer was charged with several disciplinary violations based on neglect of client matters in two cases. In the first case, the lawyer had failed to deliver a completed will to the client. In the second case, the lawyer repeatedly neglected a client's civil rights action against an employer. Based on a stipulation submitted by the parties, the Grievance Commission found that the lawyer's conduct had violated DR 9-102(B) (4) (failure to promptly deliver client property); DR 6-101(A) (1) (handling a matter when not competent); DR 6-101(A) (2) (inadequate preparation); DR 6-101(A) (3) (neglect of a client matter); and DR 1-102(A) (5) (conduct prejudicial to the administration of justice). The Commission recommended the

lawyer's license be suspended for a minimum of six months. The Court agreed with the rule violations as stipulated and found by the Commission, and suspended the lawyer's license with no possibility of reinstatement for three months.

590 The lawyer was charged with several disciplinary violations based on an alleged false representation to the district court, including DR 1-102(A)(1)(violating a disciplinary rule); DR 1-102(A)(4)(engaging in conduct involving dishonesty, fraud, deceit or misrepresentation); DR 10102(A)(5)(conduct prejudicial to the administration of justice); DR 6-101(A)(3)(neglecting a client's matter); and DR 7-102(A)(5)(knowingly making a false statement of law or fact). The Grievance Commission found the lawyer's conduct violated all of the rules specified, and recommended the lawyer's license be suspended for a period of six months. The Court agreed with the Commission's finding that the lawyer knowingly filed a motion containing false representations and did not recant until the presiding trial judge received contradicting information from another district court judge, and also agreed with its findings regarding the rule violations. The Court suspended the lawyer's license for a minimum period of three months.

591 The lawyer was charged with violation of a number of disciplinary rules, based on prior false testimony before the Grievance Commission, use of unsolicited advertising, misrepresentations to the Attorney Disciplinary Board, numerous instances of failure to account to clients regarding advanced fees and failure to return their files, and persistent avoidance of service of process by the Board and by the Commission. The Commission, with one member dissenting, recommended revocation of the lawyer's license. The dissenting member recommended a twenty-four month suspension, with additional prerequisites to reinstatement. The Court found that the lawyer's dishonesty at a prior hearing violated DR 1-102(A)(4), (5) and (6), Iowa Code section 720.2, and DR 1-102(A)(3)(illegal conduct involving moral turpitude). The Court found that the lawyer's self-laudatory and unsolicited advertising violated 2-101(A)(false, deceptive, unfair or unverifiable advertising); DR 2-101(B)(4)(proper disclosures and prior filing of direct mail solicitations with the Board); and DR 2-103(A)(recommending employment of himself). The misrepresentations to the Board violated DR 1-102(A)(4), (5) and (6) as well as DR 1-102(A)(2)(circumvention of a rule through the actions of another). The Court found that the lawyer's actions with respect to the various individual

clients violated several rules, including DR 9-102(B)(3)(maintain complete control of client funds and render appropriate accounts to the client)and DR 2-110(A)(2)(proper withdrawal from employment). The Court revoked the lawyer's license to practice law.

592 The Grievance Commission found that the lawyer had neglected his responsibility to a client by failing to file a notice of appeal as directed by a client following an OWI conviction, and failed to respond to the inquiry of the Attorney Disciplinary Board regarding the alleged neglect. The Commission recommended the lawyer's license be suspended for a period of three months. The Court agreed with the Commission that the lawyer's conduct violated DR 6-101(A)(3)(neglect of a client's legal matter) and DR 10102(A)(5)(failure to respond to inquiries of the Attorney Disciplinary Board). The Court agreed with the recommended sanction, and suspended the lawyer's license with no possibility of reinstatement for three months.

595 The lawyer was charged with violation of several disciplinary rules based on his actions involving four different clients. The factual basis alleged included charging illegal finance charges that resulted in excessive fees; threatening to report unpaid bills of clients to the Internal Revenue Service as income from discharge of indebtedness; placing an unauthorized lien on property awarded his client in a dissolution decree; and placing notice and indemnity provisions regarding professional negligence claims in his attorney fee contract. The Commission found the lawyer's conduct violated several rules and recommended the lawyer's license be suspended for a period of not less than six months. The Court found the lawyer's conduct violated DR 2-106(A)(2)(charging an illegal or excessive fee); DR 7-101(A)(3)(intentionally prejudicing or damaging a client during the course of the professional relationship); DR 1-102(A)(4)(conduct involving dishonesty, fraud, deceit or misrepresentation); DR 5-103(A)(acquiring a proprietary interest in a cause of action or subject matter of litigation); and DR 6-102(A)(attempting to be exonerated from or limiting liability to a client for personal malpractice). The Court suspended the lawyer's license for a minimum of six months, and as a condition of reinstatement required release of all liens acquired against one client's property.

596 The Attorney Disciplinary Board charged that the lawyer had

represented juveniles in Child in Need of Assistance (CHINA) matters during her employment at a non-profit organization representing juveniles, despite having substantial responsibility for the same matters while previously serving as an assistant county attorney. The Commission found the allegations were proven and constituted violations of DR 9-101(B) (lawyer shall not accept private employment in a matter for which she had substantial responsibility while serving as a public employee); DR 1-102(A)(5) (conduct prejudicial to the administration of justice); and DR 1-102(A)(1) (violation of a disciplinary rule). The Commission recommended the lawyer's license be suspended for a minimum period of six months. The Court found that the lawyer had appeared as guardian ad litem in two separate juvenile cases in which she previously had substantial involvement as an assistant county attorney. When advised of the situation, the district court had disqualified the lawyer and other lawyers of the non-profit entity from appearing in numerous cases, finding that a case-by-case disposition of the potential conflicts would threaten timely disposition of hundreds of pending juvenile cases. The Court agreed with the Commission's findings regarding the rules violated, and imposed a public reprimand.

600 The Attorney Disciplinary Board charged that the lawyer had improperly represented two clients with conflicting interests, when he served as dissolution attorney for one party while simultaneously serving as counsel for that same party and his spouse in a bankruptcy case, and then proceeded to amend the bankruptcy petition on behalf of the dissolution client only, to the detriment of the spouse. The Board also charged that the lawyer neglected to pursue appeals for two clients, and failed to respond to inquiries from the Board in four separate matters. The Commission found that the lawyer had violated DR 5-105 (independent professional judgment on behalf of a client threatened when two clients' differing interests come into play); DR 6-101(A)(3) (neglect of a client's legal matter); and DR 1-102(A)(5) and (6) (conduct prejudicial to administration of justice and reflecting adversely on the practice of law). The Commission recommended the lawyer's license be suspended for a minimum period of one year. The Court found that each of the ethical violations was proven by convincing evidence. Based on mitigating factors, the Court imposed a suspension of a minimum of six months.

601 The Attorney Disciplinary Board charged the lawyer with

several disciplinary rule violations including DR 9-102(B)(3)(failure to account for advance fees); DR 6-101(A)(3)(neglect of a client's legal matter); and DR 7-101(A)(zealous representation within the bounds of the law). Based on a stipulation of facts, the Commission found that the lawyer had withdrawn client funds from his trust account without providing the client an accounting; failed to appear at an OWI arraignment although he did file a written arraignment the same day; neglected a probate estate until receiving a delinquency notice; and neglected the interests of a client in a dissolution or marriage. The Commission recommended a public reprimand be issued. The Court found that the lawyer had withdrawn trust funds without providing a proper accounting and neglected the probate estate. The Court found the neglect and lack of zealous representation violations not sustained by the allegations with respect to the OWI arraignment or the dissolution proceeding. The Court issued a public reprimand to the lawyer.

603 The lawyer was charged with violation of several disciplinary rules based on alleged neglect in three separate cases. Two of the cases involved actions for modification of dissolutions of marriage, and the third involved probate of a decedent's estate. The matter was submitted to the Commission based on a stipulation of the parties. In the stipulation, the lawyer admitted violation of the Code of Professional Responsibility and agreed the conduct warranted a suspension. The Commission found that the lawyer's conduct violated DR 9-102(B)(4)(failure to promptly pay client funds); DR 6-101(A)(3)(neglect of client matters); DR 6-101(A)(1)(handling matters without assistance when not competent); DR 1-102(A)(1)(violation of a disciplinary rule); DR 1-102(A)(6)(conduct adversely reflecting on fitness to practice law); and DR 1-102(A)(5)(conduct prejudicial to administration of justice). The Commission recommended suspension of the lawyer's license for period of not less than nine months. The Court found that the lawyer had violated the rules as alleged by the Board, and imposed a suspension of not less than six months.

605 The lawyer entered a guilty plea to the charge of second-degree theft, based on theft of the funds from a nonprofit organization the lawyer was serving as an officer for. Based on the conviction and the underlying conduct, the Grievance Commission found that the lawyer had violated DR 1-102(A)(3)(illegal conduct involving moral turpitude); DR

1-102(A)(4)(engaging in conduct involving dishonesty, fraud, deceit or misrepresentation); DR 1-102(A)(5)(conduct prejudicial to administration of justice); and DR 1-102(A)(6)(conduct adversely reflecting on fitness to practice law). The Commission recommended that the lawyer's license be revoked. The Court found that the violations alleged in the complaint had been proven, and revoked the lawyer's license to practice.

606 The Board alleged the lawyer violated several disciplinary rules based on failure to file federal or state income tax returns due for several different years, and also failure to pay Iowa income taxes due for two different years. The lawyer had entered guilty pleas to the crimes of fraudulent practice in the second degree and fraudulent practice in the third degree in connection with his failure to file returns and pay taxes. The Commission found that the factual allegations of the complaint were proven, and recommended the lawyer's license be suspended for a minimum of two years. The Court agreed that the lawyer's conduct violated the Code of Professional Responsibility and suspended the lawyer's license for a minimum of one year.

607 The Attorney Disciplinary Board charged that while serving as an assistant county attorney, the lawyer signed the name of a district court judge to an order for hearing in a juvenile delinquency matter, without the knowledge or authorization of the judge. The Board charged the lawyer with violation of DR 1-102(A)(1)(violation of a disciplinary rule) and DR 1-102(A)(4), (5) and (6)(dishonest conduct, prejudicial to the administration of justice, adversely reflecting on his fitness to practice). The lawyer stipulated that his conduct violated the Code of Professional Responsibility. The Commission found the violations were established, and recommended suspension of the lawyer's license for a minimum period of eighteen months. The Commission also recommended that successful completion of the ethics portion of the Iowa Bar Examination be a prerequisite to reinstatement. The Court suspended the lawyer's license for a minimum period of nine months, and adopted the Commission's recommendation regarding the ethics portion of the Iowa Bar Examination.

609 The Attorney Disciplinary Board charged the lawyer with multiple violations of the Iowa Code of Professional Responsibility for Lawyers, arising from his alleged representation of two clients with differing interests simultaneously in the same matter, in which he also

inserted his own interests. The Commission found that the lawyer had actually sought out one of the clients involved in the matter, as well as inserting his own interests into the transaction thereafter, while he was representing the interests of two clients at the same time. The Commission also found that the lawyer had not fully compensated one client for the lawyer's personal purchase of property redemption rights at issue in the matter. The Commission recommended that the lawyer's license to practice law be suspended for a minimum period of six months. The Court found that the lawyer violated DR 2-101(B)(4)(a) when he recommended his own employment by one of the clients involved in the matter. The Court found a violation of DR 1-102(A)(6) because the lawyer failed to satisfy a financial obligation under a contract, based on a false claim the obligation was waived in exchange for legal services, and of DR 5-103(A) because the lawyer was representing one of the clients when the lawyer personally purchased an assignment of the client's redemption rights. Finally, the lawyer violated conflict of interest provisions of DR 5-101(A), 5-104(A) and DR 5-105 based on his multiple representation of clients as well as the presence of his own interests in the matter. The Court suspended the lawyer's license to practice for a minimum period of three months.

611 The Board alleged that the lawyer had neglected a single case involving a child custody dispute and failed to respond to the Board's notices regarding the complaint. Violations of DR 6-101(A) (competent representation) and DR 7-101(A) (zealous representation of a client) were alleged. In a stipulation submitted to the Commission, the lawyer admitted all of the allegations of the complaint. The parties also stipulated that the lawyer was hospitalized for a mental breakdown the day after the hearing in the child custody case. Based on the stipulation and admissions, the Commission recommended that the lawyer's license be suspended for a minimum of ninety days, and that the lawyer be required to provide an evaluation by a licensed health care professional prior to reinstatement. The Court noted that in previous cases where there was no prior history of discipline, neglect of one matter, and failure to respond to the Board, the Court had issued a public reprimand for the misconduct. The Court issued a public reprimand to the lawyer.

612 The Attorney Disciplinary Board filed a complaint consisting of eight counts. The factual basis for the

complaint included allegations of neglect of numerous post-conviction relief, criminal defense and forfeiture matters, numerous failures to account for advanced fees, writing checks to commissions of the Court based on a closed account, and numerous failures to respond to inquiries of the Board. The parties stipulated to all the disciplinary rule violations contained in the complaint, and also stipulated that the lawyer previously had been suspended for a minimum of two years. The Commission found the violations as stipulated, and recommended the lawyer's license be suspended for a minimum of two additional years. The Commission also recommended that the lawyer not be permitted to practice until he repaid all of the fees collected without performing services, and only upon showing that he is associated with a firm or that he has taken and continues to take a law practice mentoring program. The Court agreed with the Commission that the lawyer's conduct violated the rules as stipulated. The Court noted that all of the conduct occurred prior to the date of the prior suspension, and was similar to the conduct at issue in the prior proceeding. The Court elected to impose a concurrent sanction rather than a consecutive sanction. For the current proceeding, the Court therefore issued a public reprimand. The Court also ordered the lawyer to repay advance fees to four different clients, as a prerequisite to reinstatement.

613 The Board alleged that the lawyer failed to render an accounting to a client for fees when requested, and failed to respond to the Board's notices of the complaint. In a stipulation submitted to the Commission, the parties agreed that the lawyer's conduct violated DR 9-102(B)(3)(accounting to the client); DR 1-102(A)(1)(violating a disciplinary rule); DR 1-102(A)(5)(conduct prejudicial to the administration of justice); and DR 1-102(A)(6)(conduct adversely reflecting on fitness to practice law). The Commission recommended that a public reprimand be issued to the lawyer. Based on the lawyer's pattern of client neglect, failure to cooperate with the Attorney Disciplinary Board and a previous reprimand also issued for neglect and failure to cooperate, the Court suspended the lawyer's license for a period of thirty days.

614 The Attorney Disciplinary Board charged the lawyer with making false statements in violation of DR 7-102(A)(5) and other rules, neglecting his client's legal matters in violation of DR 6-101(A)(3) and other rules, collecting an

illegal fee in violation of DR 2-106(A)(1), practicing law while his license was suspended in violation of DR 3-101(B) and other rules, and failing to cooperate with the Board. The lawyer did not file an answer in the Grievance Commission proceeding, but the parties did submit a joint stipulation of facts. The Grievance Commission recommended that the lawyer's license to practice be revoked. The Court found the lawyer had made at least two misrepresentations. One involved forging an executor's name to a probate report and inventory filed with the district court, and the other involved a misrepresentation regarding the basis for his inability to close an estate. The Court also found that the lawyer failed to notify some clients of a prior suspension, and then prepared an interlocutory probate report and delivered it to an executor while his license was suspended. The lawyer had received three separate probate delinquency notices, failed to file an inheritance return after the executor gave him a check for the taxes due, and in one estate took 100% of his fees prematurely and without court order. The Court revoked the lawyer's license to practice.

615 The Attorney Disciplinary Board charged the lawyer with violation of numerous disciplinary rules based generally on numerous instances of misrepresentation, neglect of client matters, failure to respond to Board notices, and failure to properly maintain his lawyer trust account. The Commission found that the lawyer had signed client names to bankruptcy petitions and subsequently told conflicting accounts regarding it, failed to comply with rules of appellate procedures in four different cases, neglected client matters in two other cases and misrepresented the case status to the clients, failed to respond to numerous Board notices, commingled his personal funds in his lawyer trust account, failed to maintain a proper ledger and other records to demonstrate compliance with trust accounting requirements, and knowingly misrepresented the nature of at least one trust account transaction to the Client Security Commission auditor. The Commission recommended suspension of the lawyer's license for a minimum of fifteen months. The Court agreed with the findings and conclusion of the Commission, and imposed a license suspension of not less than twelve months.

616 The Attorney Disciplinary Board alleged that the lawyer had neglected the probate of several different estates, misrepresented the status of the matters to clients and the district court, collected probate fees before they were

earned and failed to deposit them in the lawyer's trust account. The Board alleged the lawyer's conduct violated several disciplinary rules including DR 9-102(A) (failure to deposit unearned fees in trust); DR 2-106(A) (collecting an illegal or clearly excessive fee); 6-101(A) (3) (neglecting a client's legal matter); and DR 1-102(A) (4) (conduct involving dishonesty, fraud, deceit or misrepresentation). The Commission found that although the lawyer had made mistakes in his handling of the probate estates involved, his errors were not the result of dishonesty, but were attributable to his inexperience. The Commission issued a private admonition to the lawyer and recommended that the lawyer associate co-counsel before handling any more probate matters.

617 The lawyer self-reported to the Attorney Disciplinary Board having engaged in a sexual relationship with a client while representing the client in a dissolution of marriage proceeding. The Board complaint charged the lawyer with violation of DR 5-101(B) (lawyer shall not engage in sexual relations with a client) and DR 1-102(A) (1) and (6) (violating a disciplinary rule and engaging in conduct adversely reflecting on fitness to practice law). The matter was submitted to the Commission by stipulation of facts, in which the lawyer acknowledged the conduct was unethical. The stipulation jointly recommended a sixty day suspension be imposed. The Commission recommended that a six month suspension be imposed, and that the lawyer be required to complete a counseling program. The Court found that the lawyer had violated the disciplinary rules as alleged and stipulated. The Court suspended the lawyer's license for a minimum of three months.

619 The Attorney Disciplinary Board charged the lawyer with numerous disciplinary rule violations based generally on neglect of thirteen probate cases, which had resulted in the issuance of forty-six notices of delinquency by the clerk of the district court. In addition, the lawyer had failed to respond to numerous notices from the Board regarding the complaints the Board had received. The Commission found that the lawyer's conduct violated DR 6-101(A) (3) (neglect of clients' legal matters); DR 7-101(A) (2) (completing a contract of employment); DR 1-102(A) (5) (conduct prejudicial to the administration of justice); and DR 1-102(A) (6) (conduct adversely reflecting on fitness to practice law). The Commission also found the lawyer had violated DR 2-106(A) by receiving probate fees prematurely in violation of Iowa Court Rule 7.2(4).

The Commission also found that the lawyer had ignored requests from another attorney and from the district chief judge to act with respect to the probate matters, and that substantial expenses had been incurred due to the lawyer's failure to act promptly. The Commission recommended the lawyer's license be suspended for a minimum of twelve months. The Court agreed with the Commission's recommendations, and imposed a suspension of not less than twelve months. In addition, the Court ordered the lawyer to certify payment of all costs and expenses incurred to complete the delinquent probate matters, as a condition precedent to reinstatement. Also, the lawyer is not to engage in probate matters unless the lawyer associates with an experienced lawyer approved by the district chief judge.

622 The Attorney Disciplinary Board alleged that the lawyer had neglected client matters, failed to return a file to a client, failed to cooperate with the Board, and violated trust account rules. The Grievance Commission found several of the alleged violations were proven, and recommended suspension of the lawyer's license to practice for a minimum period of six months. The Court found that the lawyer had neglected the legal matters of three separate clients in violation of DR 6-101(A) (neglect of client legal matters) and DR 7-101(A)(1) (seeking lawful objectives of clients). The Court also found the lawyer had failed to timely file documents in one case and failed to respond to the Board's inquiries, in violation of DR 1-102(A)(5) (conduct prejudicial to the administration of justice) and DR 1-102(A)(6) (reflecting adversely on fitness to practice). The Court also found the lawyer had failed to return a client's file upon her request in violation of DR 2-110(A)(2) and DR 9-102(B)(3). Finally, the Court found multiple violations of the trust account rules, including DR 9-102(A) (failure to deposit client funds in his lawyer trust account) and DR 9-102(B)(3) (failure to render proper accountings). The Court suspended the lawyer's license for a minimum period of four months, and also required him to refund unearned fees to three specific clients as a prerequisite to reinstatement.

624 The five-count complaint filed by the Attorney Disciplinary Board alleged that the lawyer had neglected and engaged in other professional misconduct in connection with three probate estates, had failed to properly handle tax returns for a husband and wife, and failed to cooperate with the Board. The Grievance Commission found that the lawyer had

neglected the three estates, disregarded court orders, made misrepresentations to the district court and clients, failed to return unearned attorney fees in one instance, and failed to cooperate with the Board in several instances. The Commission recommended the lawyer's license be suspended for a minimum period of two years. The Commission also recommended that prior to reinstatement, the lawyer be required to undertake ethics training, provide an evaluation from a licensed health care professional, and refund monetary amounts owed certain former clients. The Court found the lawyer had engaged in a persistent pattern of delinquencies, missed deadlines and evasive and misleading statements in four different matters, in violation of DR 6-101(A)(3) and 7-101(A)(3). The Court also found that the lawyer had failed to comply with orders directing appropriate notice in probate matters, failed to file a final report as specifically ordered, failed to file a compliance report as ordered, and refused to refund an unearned fee as ordered, in violation of DR 7-106(A). The refusal to refund an unearned fee also violated DR 9-102(B)(4). The Court also found that the lawyer had engaged in a pattern of misrepresentations designed to conceal his neglect of client files in violation of DR 1-102(A)(4) and made unreliable representations to the district court in two separate instances, in violation of DR 1-102(A)(5)(conduct prejudicial to the administration of justice) and DR 1-102(A)(6)(conduct reflecting adversely on fitness to practice law). The lawyer also failed to turn over a client file in violation of DR 2-110(A)(2) and failed to respond to numerous inquiries by the Attorney Disciplinary Board in violation of DR 1-102(A)(5) and (6). The Court suspended the lawyer's license to practice for a minimum period of eighteen months. The Court also required as prerequisites to reinstatement that the lawyer provide an evaluation by a licensed health care professional to be approved by the Court, and demonstrate satisfaction of an existing judgment entered against him in one client matter, and a tax penalty assessed against clients in another matter.

626 The Attorney Disciplinary Board complaint charged that the lawyer had neglected client matters, made misrepresentations to the district court, and failed to return a client file upon request. The Grievance Commission recommended that the lawyer's license be suspended for a minimum period of two years. The Court found that a final report the lawyer filed in a probate

estate contained a number of misrepresentations, in violation of DR 1-102(A)(4). The lawyer's failure to inform the district court of an uncompleted condition precedent to entry of a dissolution decree violated Iowa Rule of Professional Conduct 3.3(d). The lawyer's failure to perform functions required in a probate estate, failure to pursue filing of a bankruptcy petition for other clients, and his failure to perfect an appeal for another client all constituted neglect in violation of DR 6-101(A)(3). The Court adopted the "entire file" approach to determining who owns the documents in a client's file. Based on that approach, the lawyer had violated DR 9-102(B)(4) by refusing to turn over the complete file to clients who requested it, and instead retaining documents the lawyer considered to be attorney work product. The Court suspended the lawyer's license for a minimum period of one year.

- 629 The two-count complaint filed by the Attorney Disciplinary Board alleged that the lawyer had neglected a permanency review matter in which he was court-appointed to represent the child's father, failed to respond to Board notices regarding the complaint in the permanency review matter, and failed to properly pursue an appeal in a criminal case. A majority of the Commission's division appointed to hear the matter found that the lawyer had neglected the permanency review matter, neglected the criminal appeal, and failed to respond to the Board, in violation of several disciplinary rules. The Commission majority recommended that the lawyer's license be suspended for a period of thirty day. Two dissenting members of the Commission division recommended a public reprimand, finding that the conduct in the permanency review matter did not establish neglect, the failure to respond to the Board did not establish a pattern of failure, and no violation occurred in dismissal of the criminal appeal because the defendant was not prejudiced or dissatisfied with the lawyer's representation. The Court found that the lawyer's admitted failure to respond to Board inquiries violated DR 1-102(A)5) and (6). The Court also found that the lawyer had consistently disregarded correspondence from the client in the permanency review matter, and failed to keep that client informed of the case status, in violation of DR 6-101(A)(3). The Court found no violation of DR 7-101(A)(failure to seek client's lawful objectives or carry out a contract of employment), because at the time he withdrew from the matter he had not received recommendations from DHS and CASA upon which a strategy

could be based. The Court found that the lawyer's disregard of the default notice issued in the criminal appeal violated Iowa Rules of Professional Conduct 32:1.1 (incompetence) and 32:8.4(d) (conduct prejudicial to the administration of justice), and his failure to timely file a brief violated Iowa Rule of Professional Conduct 32:1.3 (diligence and promptness in representing a client). The Court issued a public reprimand to the lawyer.

630 The lawyer accepted a public reprimand issued by the Attorney Disciplinary Board, based on the Board's finding that the lawyer entered a guilty plea to a serious misdemeanor charge of domestic abuse assault. The Board found this conduct violated DR 1-102(A)(5) (conduct prejudicial to the administration of justice) and DR 1-102(A)(6) (conduct reflecting adversely on fitness to practice law). The case pending before the Grievance Commission was dismissed.

637 The lawyer was charged with several different rule violations, based on a single client matter in which the lawyer failed to notify a client and did not attend a scheduled hearing. The rules the Board alleged were violated included DR 1-102(A)(1) (violating a disciplinary rule; DR 1-102(A)(5) (conduct prejudicial to the administration of justice); DR 1-102(A)(6) (conduct adversely reflecting on fitness to practice law); DR 2-106(A) (charging or collecting an illegal or clearly excessive fee); DR 6-101(A)(3) (neglect of a client's legal matter); DR 7-101(A)(1) (failing to seek the lawful objectives of a client through reasonably available means); and DR 7-101(A)(2) (failing to carry out a contract of employment). The Commission found that the lawyer's single act of neglect was the result of inadvertence or good faith error, and did not reflect indifference or consistent failure to advance the client's interests. The Commission concluded that no violation of a disciplinary rule had occurred, but it did issue a private admonition to the lawyer regarding office procedures to avoid calendar errors in the future.

EXHIBIT E
APPROVED 2007 BUDGETS

GRIEVANCE COMMISSION

FISCAL YEAR 2007 BUDGET

OPERATING EXPENSES

Salary and Salary Expenses

Director Salary	\$23,580.30
Clerical Salary	\$28,570.00
Temporary Staffing	\$1,920.00
FICA	\$4,136.38
IPERS	\$3,109.04
Employee Benefits	\$3,826.44

Rent & Utilities	\$10,800.00
Copier Lease	\$1,900.00
Equipment & Repairs	\$300.00
Supplies	\$1,100.00
Telephone	\$1,600.00
Travel	\$2,200.00
Training	\$1,000.00
Postage	\$2,250.00
Insurance	\$400.00
Auditing	\$0.00
Litigation	\$0.00
Transcripts (SHR)	\$25,000.00
Automation Support	\$1,525.00
Misc., Including Moving Expense	\$800.00
Internet App. Maint. & Development	\$4,000.00
Internet Payment Charges	\$9,936.00

TOTAL OPERATING EXPENSES \$127,953.16

CAPITAL EXPENDITURES \$500.00

TOTAL PROJECTED EXPENDITURES \$128,453.16

COMMISSION ON THE UNAUTHORIZED PRACTICE OF LAW

CALENDAR YEAR 2007 BUDGET

Salary and Salary Expenses

Investigator	\$10,535.65
FICA	\$805.98
IPERS	<u>\$605.80</u>

Total Personnel Costs \$11,947.43

Rent	\$0.00
Equipment	\$0.00
Supplies, Postage, Copying, Printing	\$1,200.00
Telephone	\$250.00
Travel	\$3,000.00
Investigation Expenses	\$800.00
Commission Meeting Expenses	<u>\$600.00</u>

Total Non-Personnel Costs \$5,850.00

TOTAL PROJECTED EXPENDITURES \$17,797.43

Exhibit F
Recent Historical Data Regarding Grievance Case Filings and Dispositions

